IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.T.SANKARAN

THURSDAY, THE 16TH NOVEMBER 2006 / 25TH KARTHIKA 1928

Crl.Rev.Pet.No. 3996 of 2006()

CRA.529/2005 of SESSIONS COURT, THALASSERY
MC.38/2005 IN CC 611/99 of ADDL.CHIEF JUDICIAL MAGISTRATE COURT, THALASSERY

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REVN. PETITIONERS/APPELLANTS/RESPONDENTS:

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1. CHEKKILATT NANU, S/O. CHATHU
   GOLDSMITH, CHAKKILATT HOUSE
   PERINGATHOOR AMSOM
   POOKOM DESOM

2. MANIKACHALIL HAREENDRAN
   S/O.KUNHIKANNAN, TAILOR
   MANICHACHALIL HOUSE, PANOOR.

BY ADV. SRI.CIBI THOMAS

RESPONDENTS/COMPLAINANT&STATE:

STATE OF KERALA REP: BY PUBLIC PROSECUTOR
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. C.K.SURESH

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 16/11/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.T.SANKARAN, J

Crl. R.P. No. 3996 of 2006

Dated this the 16th day of November, 2006

ORDER

The petitioners are the sureties of the accused in C.C.No.611 of 1999. The accused in that case was found guilty for the offence under Section 138 of the Negotiable Instruments Act. The execution of the sentence was suspended on the strength of the security bond furnished by the petitioners herein. The accused did not get an order suspending the sentence from the appellate court within the time granted by the trial court. Therefore, the trial court forfeited the bonds executed by the petitioners. Notice was issued to them in M.C.No.38 of 2005 and after hearing, a penalty of Rs.10,000/- each was imposed on them. The petitioners filed Crl.A.No. 529/2005 challenging that order. The appellate court disposed of the appeal by the judgment dated 26.5.2006, reducing the penalty from Rs. 10,000/- to Rs. 5,000/- each.

2. Even before the disposal of the appeal on 26.5.2006, a

petition for compounding, was filed by the complainant and the accused in Crl. R.P. No. 1105/2006 and after allowing the application for compounding, the accused was acquitted as per the order of this court dated 27th March, 2006. The order in Crl. R.P. No. 1105 of 2006 was not apparently brought to the notice of the appellate court while disposing of the Crl.A. No. 529/2005.

3. Heard, the learned counsel for the petitioner and the public prosecutor. In view of the fact that the dispute between the complainant and accused is settled and that the accused is acquitted under Section 320(8) of the Code of Criminal Procedure Code, I am of the view that the penalty of Rs. 5,000/- imposed by the appellate court on the petitioners is excessive. A penalty of Rs.1,000/- each is sufficient in the facts and circumstance of the case.

4. Accordingly, in modification of the order passed by the learned Magistrate and the judgment of the appellate court, a penalty of Rs.1,000/- each is imposed on the petitioners. The

petitioners shall pay the penalty within a period of one month, failing which, they shall undergo imprisonment in Civil prison for a period of two weeks.

Crl. R.P. is allowed to the extent indicated above.

K.T.SANKARAN,
JUDGE

csl